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Attorneys for Highland Park CDO I Grantor Trust,
Series A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HIGHLAND PARK CDO I GRANTOR
TRUST, SERIES A

Plaintiff,

v.

MATTHEW STUDER, FRED GRAFT, ERNIE
MALAS, and PETER CORATOLA,
Defendants.

Case No. 08 Civ. 01670

**PLAINTIFF'S RULE 56.1
STATEMENT**

Plaintiff Highland Park CDO I Grantor Trust, Series A ("**Highland**"), as successor-in-interest to Morgan Stanley Mortgage Capital, Inc., ("**Morgan Stanley**"), by its attorneys, Orrick, Herrington & Sutcliffe LLP, as and for its statement of material facts as to which there is no genuine issue to be tried, states as follows:

Parties

1. Plaintiff Highland is a Cayman Islands trust, having an address at The Bank of New York Trust Company, National Association, 601 Travis Street, 16th Floor, Houston, Texas.
2. Defendants Matthew Studer, Fred Graft, Ernie Malas and Peter Coratola are individuals domiciled in the State of Ohio.
3. Wells Fargo N.A., as Trustee for the Morgan Stanley Capital I Inc. Commercial Mortgage Pass-Through Certificates Series 2006-XLF ("**Wells Fargo**"), is a

national banking association having a place of business at c/o Midland Loan Services, Inc., 10851 Mastin, Suite 300, Overland Park, Kansas.

The Relevant Agreements

4. On August 3, 2006, Morgan Stanley, together with its successors and assigns, (in this capacity, the “**Mezzanine Lender**”) and Platinum Lodging Mezz, LLC (“**Mezzanine Borrower**”) executed a Mezzanine Loan Agreement for a loan in the original principal amount of \$10,500,000 (“**Mezzanine Loan**”). (A true and correct copy of the Mezzanine Loan is attached to the accompanying declaration of Michael T. Stolper (“Stolper Decl.”) as Exhibit 1). Morgan Stanley subsequently assigned to Highland its interests arising under the Mezzanine Loan and the related loan documents.

5. On August 3, 2006, the Guarantors executed a Mezzanine Guaranty of Payment and Guaranty of Recourse Obligations of Borrower (“**Mezzanine Guaranty**”), and each thereby agreed to personally guaranty the Mezzanine Loan. The Mezzanine Guaranty is in favor of Highland (as assignee). (A true and correct copy of the Mezzanine Guaranty is attached to the accompanying Stolper Decl. as Exhibit 2).

6. Pursuant to the Mezzanine Guaranty, the Mezzanine Lender could “proceed directly and at once, without notice, against Guarantor to collect and recover the full amount of the liability hereunder or any portion thereof, without proceeding against Borrower or any other person....” (Stolper Decl. Exhibit 2 ¶ 12).

7. The Defendants’ obligation to pay Highland the entire principal of the Mezzanine Loan is “and shall be absolute under any and all circumstances.” (Stolper Decl. Exhibit 2 ¶ 2).

8. The “validity of this Guaranty and the obligation of [Defendants]

hereunder shall in no way be terminated, affected or impaired (a) by reason of the assertion by Lender of any rights or remedies which it may have under or with respect to the Mezzanine Note or any Mezzanine Loan documents including any collateral.” (Stolper Decl. Exhibit 2 ¶ 9).

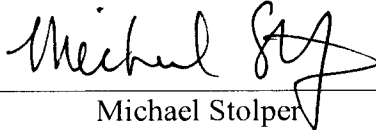
Default Proceedings

9. The Mezzanine Loan matured on February 9, 2008 and the Mezzanine Borrower defaulted. Neither the Mezzanine Borrower nor any of the Guarantors have responded to Highland's demands for cure. (A true and correct copy of the demand letter is attached to the accompanying Stolper Decl. as Exhibit 5).

10. Having received no response thereto, Highland exercised its rights under the Mezzanine Guaranty and initiated the current action in this Court on February 12, 2008 against the Guarantors in order to collect from Defendants the unpaid sum of \$10,500,000 plus accrued interest, attorneys' fees and legal costs.

Dated: New York, New York
June 27, 2008

ORRICK, HERRINGTON & SUTCLIFFE LLP

By: 
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